

**Corrections Advisory Council
Meeting Summary
Aug. 12-13, 2008
Deer Lodge, MT**

Tuesday Aug. 12

Lt. Gov. John Bohlinger called the meeting to order at 2:52 p.m. in The Pen facility.

Council members in attendance were Co-Chairman Bohlinger, Rep. Tim Callahan, Bob Peake, Sen. Jim Shockley, Judge Kurt Krueger and Commissioner Allan Underdal. Absent members were Co-Chairman Steve Gallus, Sen. Trudi Schmidt, Sheriff Dave Castle, Kris Copenhaver-Landon, George Corn, Kevin Madman and Channis Whiteman.

DOC staff present were: Director Mike Ferriter; Montana State Prison Warden Mike Mahoney; Deputy Warden Ross Swanson; Gary Hamel, Health, Planning and Information Services Division administrator; Colleen Ambrose, legal counsel; Bob Anez, communications director; Sally Hilander, victim information specialist; Linda Moodry, public information officer and victim information specialist at MSP; Sam Lemaich, council facilitator; Dale Tunnell, investigator; Kelly Speer, Facilities Program Bureau chief; and Jerry Johnson of the Contract Placement Bureau.

Lt. Gov. Bohlinger recounted the tour of the Montana State Prison taken that morning by some members of the council. He said he was impressed with the morale in the facility and with the extent of industry and vocational education programs offered to inmates. He said he wished all inmates would take advantage of the opportunities provided by the programs.

Following introductions of all those attending the meeting, the council approved the summary of the May meeting.

Gate money

Mr. Anez summarized findings from a survey of states' policies regarding issuance of "gate money" to inmates leaving prison. The report was requested at the May meeting. He said 35, or 70 percent, of all states responded to the survey. He reviewed the highlights, saying:

--35 states (70 percent) responded to multiple requests for information.

--Only five states (Alaska, New Hampshire, New Jersey, North Dakota and South Carolina) give departing inmates no money.

--Of the states that do give money, the amounts vary from \$10 in Alabama and to an undetermined amount in Vermont that is based on an inmate's needs.

--Eight states (Alabama, Georgia, Louisiana, Nevada, Pennsylvania, South Carolina, Texas and Vermont) provide assistance at least partially related to an offender's travel plans or costs.

--20 states (57 percent) provide less gate money than the \$100 Montana provides, based on stated amounts or maximums.

--Eight states (Arkansas, Colorado, Florida, Illinois, Kansas, Minnesota, Nebraska and Pennsylvania) provide the same amount as Montana. Texas gives \$100 only to those who leave upon discharging their sentence; parolees get \$50 upon leaving.

--Six states (17 percent) potentially provide more money than Montana. California gives offenders \$200, Idaho provides up to \$1,500 for housing, Nevada bases its amount on distance an offender plans to travel, Texas gives parolees \$50 up front and another \$100 after reporting to their parole office, Vermont's amount is open-ended based on need and West Virginia provides \$300 from a trust fund.

--25 of the 35 states (71 percent) indicated inmates have accounts maintained by the prisons. Some states did not respond on this issue.

--14 of the 25 states (56 percent) indicating they maintain inmate accounts also reported that the amount of money given a departing inmate depends to some degree on the amount in those accounts.

--Six of the 35 states (17 percent) indicated they have a "forced savings" policy for inmates.

Mr. Shockley said increasing Montana's payment from \$100 to \$500 or \$1,000 would be cheap, and that it is not good public policy to provide only \$100.

Mr. Underdal said departing inmates do need money for room and board, but questioned whether giving them a check is a good idea.

Mr. Callahan asked for a summary of the DOC's practice in regard to gate money.

Mike Mahoney, warden of Montana State Prison, said the practice is more complex than just giving each inmate \$100. He said inmates work with the institutional probation and parole officer to develop discharge plans. He said controlling how inmates spend money given them upon leaving prison is difficult in cases where inmates complete their sentence when they leave. Those inmates do not have to tell prison officials their plans. He estimated about 40 percent of departing inmates have completed their sentences.

Mr. Peake said it's hard to treat all departing inmates the same because some go to prerelease centers and others have places to live and jobs, while some do not. He said inmates who work while in prison should be subject to a forced savings plans. He said there are a lot of variables that should be looked at when inmates leave prison.

Mr. Bohlinger said he would hate to think that Montanans do not treat all inmates fairly. He said Montana may be able to do better than \$100.

Mr. Mahoney said the prison has obtained software needed to implement a forced savings plan for inmates, but the system won't be operating for another eight months. He said the amount of money an inmate is able to save depends on how much money is deducted from his earnings for such things as restitution to victims.

Mr. Bohlinger said he did not want inmates leaving the prison in such dire straits that they merely spend their gate money to get drunk and then commit another crime. He said the best thing to do is give inmates employable skills so they can avoid new crimes.

Mr. Mahoney noted that inmates can receive more than \$100 on a case-by-case basis, depending on need.

Mr. Shockley said his calculations indicated that an inmate, earning \$1.29 a day while in prison for an average stay would have \$851 saved by the time he leaves.

Mr. Ferriter said the department would appreciate any financial assistance for re-entry programs that the Legislature might provide. He said a pool of money to help departing inmates on a case-by-case basis would be helpful. There are times when inmates need more than \$100 when leaving, but the inmates should earn the money, he said.

Mr. Bohlinger said he felt better about how the state is taking care of departing inmates after learning that some can receive more than the usual \$100.

Mr. Shockley said he wanted a higher amount. After the state spends about \$28,000 a year to house an inmate in prison, what's another \$500, he said. He said Rep. Ray Hawk, chairman of the subcommittee that handled the department's budget in the 2007 Legislature, would support additional funding for the department to pay more if the DOC offered such a proposal.

Mr. Bohlinger said nothing prevents any lawmaker from introducing his own bill.

The council took no action on the issue.

Victim services & prosecutors

Ms. Hilander, victim services specialist for the DOC, made a presentation on her plans to make prosecutors more aware of victims services so they can pass the information on to the victims they encounter in their work. The report was requested at the May meeting.

She said she plans to address the fall conference of the Montana County Attorneys Association and discuss with members how victims can register to be notified of an offender's changing status in the corrections system. She said she also will urge prosecutors to help victims better understand the difference between a prison sentence and DOC commitment. Lastly, she said, she will talk with prosecutors about what can be done when offenders violate court orders not to contact their victims.

Native American programs/services report

Mr. Johnson gave a report summarizing religious and cultural programs available for native Americans in the prison system. The report was requested at the May council meeting. Mr. Callahan asked whether the department tried to determine whether the programs available are what the inmates want.

Mr. Johnson said there's always something more that inmates would like to have, but that scheduling events and providing staff for adequate security become problems. He said that, for the most part, inmates are fairly well satisfied with what is available. He said inmates are not formally surveyed as to their feelings, but that religious activities coordinators at the facilities have a good sense of inmate attitudes.

Mr. Bohlinger said he learned on the tour about efforts of the religious activities coordinator at MSP to be open to all faiths. He said he saw a real effort to minister to the native population.

Mr. Lemaich asked about the screening process for volunteers to come into the prison to offer religious services. Mr. Mahoney said officials make sure such people have the knowledge and skills necessary to provide such assistance. He said MSP provides services for more than 30 denominations. He said the screening process doesn't prevent volunteers from coming into the prison, but that volunteers sometimes get burned out by the demands on their time.

Law and Justice Committee Update

Mr. Anez noted that a summary of the work of the Law and Justice Interim Committee was included in the materials provided to council members, as had been requested at the May meeting. The committee staffer was unable to attend the council meeting.

Mr. Shockley, a member of the committee, talked about the three bills the committee is working on. He said the focus is on youth corrections and what to do with mentally ill juvenile offenders so that they no longer have to be sent out of state for treatment.

Mr. Ferriter said the DOC has been very involved with the committee and fielded a lot of questions about suicide prevention efforts in prisons. He said committee members appeared satisfied that the DOC was doing a good job on the issue and they turned their attention to jail standards in that regard.

Mr. Shockley agreed that the DOC looked very well in the committee's eyes. He said the question of developing an in-state treatment facility for mentally ill youth is a difficult one. He said such a facility needs to be state-run and be located where professional staff can be easily found. He said the committee did not act on the issue.

Mr. Ferriter said the DOC has no proposal in its new budget plan for development of a state-run facility. But he said the DOC wants to issue a request for information to determine the potential for developing a facility on a contracted basis. He said DOC was working with the Department of Public Health and Human Services and the judiciary to determine their interest.

Mr. Shockley was skeptical of involving DPHHS, saying getting two agencies to work together on one project is a recipe for spending lots of money and getting nothing done. He said DPPHS should not be involved in the DOC efforts.

Mr. Peake said the court system has four youth in out-of-state mental health treatment facilities for 150-300 days. A decision has to be made on whether to abandon those providers and go with a facility in Montana. The problem is that existing facilities in Montana refuse to take some children and they have to be sent out of state.

Mr. Ferriter said DPHHS has about 187 children placed out of state and DOC has six. He said it's time to put the question of creating an in-state facility on the table. If DPHHS and the courts say no, then the matter should be put to rest, he said.

Mr. Krueger said DPHHS should be involved because it is such a big player in treatment of mentally ill youth.

Mr. Ferriter said there have been significant efforts to improve relations between DOC and DPHHS and that the two agencies work well together.

Mr. Bohlinger said the fate of mentally ill children is a great concern to Gov. Schweitzer.

Mr. Peake said one of the questions is whether a facility for youth would be a correctional or treatment program. It has to be secure, yet provide appropriate treatment, he said.

Public Comment

Scott Crichton, representing the Montana ACLU, said change in the state has been slow when it comes to corrections and that officials do not pay enough attention to what has been tried in the past. He said the jail standards discussion undertaken by the Law and Justice Committee was similar to one 20 years ago. He said counties and the DOC should collaborate more, since one is a feeder system for the other. He said county jails are not tracking data well. He said he wants prisons used only for those people who are truly dangerous and that mentally ill offenders should be placed elsewhere. He said meth addicts would be better off if they were not considered felons.

Wednesday, Aug. 13

Co-Chairman Bohlinger convened the meeting at 9:05 a.m.

Council members present were Co-Chairman Bohlinger, Rep. Tim Callahan, Sen. Jim Shockley, Sen. Trudi Schmidt, Sheriff Dave Castle, Judge Kurt Krueger, Commissioner Allan Underdal, Bob Peake and Kris Copenhaver-Landon. Members absent were Sen. Steve Gallus, George Corn, Channis Whiteman and Kevin Madman.

The council watched the documentary about women offenders, entitled "Dear Mom." Mr. Krueger suggested it be shared with chemical dependency providers and Mr. Bohlinger suggested DOC talk with the Office of Public Instruction about showing the video in drug education classes.

Long-term planning

Consultants Steve Carter and Ben Crooks from the firm of Carter Goble Lee, joined by Jeff Sandholm and Marie Wilson from Dowling-Sandholm Architects, made a presentation on initial findings from their work on a long-term strategic plan for the DOC.

Mr. Carter said the United States is starting to realize that it cannot sustain a 45 percent recidivism rate because it's too costly to build the prisons to hold that many offenders. He said the pendulum is swinging away from adding more prison beds and in a direction of community-based corrections that Montana feels comfortable with. He said the attitude here in Montana is not to build more "warehouses."

He said his firm looked at states with which to compare Montana: Idaho, South Dakota, Utah, Wyoming and Oregon. He said Montana has a slightly higher incarceration rate than those combined states, but it is lower than the national rate. He said about 1.3 percent of the state's population is supervised by the DOC, a figure comparable to the other five states. The average daily cost per inmate in Montana is \$76, compared to an

average of \$65 among the benchmark states. Montana's average daily medical cost per inmate is \$7.41, which is well below the national average and not much higher than the neighboring states. Montana's food costs in prisons are right in line with those elsewhere and amount to about \$1 per meal. Carter said if the amount gets any lower, the quality of the food would be affected.

Carter said when it comes to developing alternatives to prison, such as treatment programs and prerelease centers, the state has "already have invested in programs that have the best benefit in the end." He said the initial review of Montana corrections quickly focused on the needs of women offenders and mental health issues. Montana has a need for mental health beds and beds for inmates with medical problems. Those two populations are the fastest-growing segments of the U.S. correctional system, he said.

Mr. Crooks talked about offender population projections and said preliminary indications are the need for secure beds may decrease, from about 21 percent of the total offender population to 18 percent by 2025.

Mr. Carter said the state will have to invest in adding staff to the prison alternatives and probation and parole programs in order to reduce dependence on secure care and the accompanying cost of capital construction. Although Montana has the beds it needs today, the system is at 97 percent of capacity and the state must do something quickly to prevent the population from exceeding operating capacity of the system, he said. He said minimum and medium security beds will be needed most. Mr. Crooks said the state should strive not to be above 85 percent of capacity. Mr. Carter said some states would give anything to be below capacity like Montana; he noted Massachusetts is 56 percent over capacity.

Sen. Schmidt asked what other states were doing to handle special needs inmates. Mr. Carter said inmates needing special housing come from all custody levels so they cannot all be housed in a single unit. He said one of Montana's greatest needs is for space to put inmates who are disruptive to prison operations.

Mr. Sandholm explained the role of his firm in surveying DOC facilities to determine their condition. So far, indications are that they are in pretty good shape with no catastrophic problems and some minor safety concerns.

Mr. Carter said of Montana corrections programs: "What you're operating is really quite good in contrast to what we have found (elsewhere). You're quite far ahead. Management and staff have a progressive attitude towards addressing issues of treatment and rehabilitation." He also said he found a good relationship between the DOC and its contractors.

Mr. Crooks said DOC staff understands the relationship between security and treatment, and that's unusual and "extremely impressive."

Mr. Carter said that, in addition to the need for medical and mental health care beds, a major issue is whether operation of the Montana Women's Prison at its current location is the best use of that facility. He recommended that the DOC involve sheriffs' offices around the state in developing programs for housing inmates as they re-enter

communities. He said the closer you can move offenders to the community, the more successful they will be.

Mr. Shockley talked about his wish to see a barracks built outside of prison to house low-custody inmates. Mr. Carter said such a program would need to also provide treatment, but that the facility could be built at a lower price than secure cells.

Mr. Peake asked whether the prison industries programs were part of the study. Mr. Carter said the plan will address the amount of square footage needed to keep inmates active in job training, vocational and education programs.

Mr. Crichton asked if more treatment at the front end would affect population projections. Mr. Carter said it could, but cautioned against gambling on the effectiveness of those programs and then finding out that the system lacks the needed space.

Mr. Krueger asked whether the consultants foresee a continued need for prison alternative programs. Mr. Carter said yes, because those programs have the best success rates. He said the state's prerelease programs are working and that he hopes policymakers realize that. He said the ability of Montana judges to sentence someone to the DOC for placement is a unique feature in the nation. Carter also said the Proposition 36 effort in California has not had the positive impact on recidivism that officials had hoped for. He agreed with Warden Mahoney that there will probably be a need for additional secure prison beds in the future, although the state appears to have a good balance now.

Mr. Bohlinger asked whether greater spending on probation and parole will help reduce recidivism. Mr. Carter said such investment will be as, or more, important than investment in construction of more prison beds.

Mr. Crichton asked how good time fits with the system. Mr. Carter said removal of the program works against the system, but agreed with Mr. Shockley that a problem with good time is that so few people understand how it works.

Mr. Peake asked if the planning process included the juvenile system. Mr. Carter said it would, only to the extent that it affects the adult system.

Mr. Carter presented a slide show and discussion showing what other states and nations are doing in regard to prison construction. He then discussed with the council members their issues. Mr. Peake said the system used to classify inmates must have the trust of corrections professionals and the public. He also said the public should have a tolerance level that recognizes that sometimes offenders will not act appropriately. Mr. Carter agreed, and said without trust in the classification system, everything in the planning process is irrelevant.

Mr. Carter discussed the DOC's mission statement and how the agency fulfills the provisions of that statement. He said the strategic plan will look at what is the best use of facilities and whether those uses can help change offender behavior. He raised the prospect of a law change that would no longer send to the DOC those offenders with sentences of two years or less, and wondered what impact that would have on the system. Mr. Carter said the recommendations his firm provides will have to comply with the mission statement.

Sheriff Castle said the DOC does a tremendous job, but if the public doesn't have confidence in what it does and believes bad things will happen, then it will lose support of the community. Mr. Crooks said the state needs to educate the public about what is being done by DOC and why it is doing those things.

Sheriff Castle said many people don't care about taking care of offenders coming back to communities.

Mr. Carter said use of recidivism figures as a measure of effective programs among the states is difficult because there are so many different definitions of recidivism. He said everything the plan will look at involves questioning whether it is the right environment for reducing recidivism. Sen. Schmidt said that point should be emphasized because the public wants to know how programs affect recidivism.

Mr. Carter said the goal of maintaining 80 percent of offenders outside of prison is a wonderful target for Montana. Mr. Callahan asked what effect the public will see from maintaining that goal. Mr. Carter said a cost can be attached to recidivism – about \$112,000 per offense. Mr. Callahan said at that price it may be cheaper to lock up offenders longer. Mr. Carter that is not true, when you consider the cost of building the additional prison cells needed for long incarceration.

Craig Thomas, executive director for the Board of Pardons and Parole, asked whether the planning will include the board. Mr. Carter said he needs to talk with the board to see how its work affects the long-term planning.

Public comment

Jerry Marble said DOC should ensure more frequent drug testing of offenders on probation and parole to more quickly detect those drugs that don't remain in a person's system as long as others. If offenders are caught sooner when they use such drugs, he said, they may not get into more trouble. Mr. Ferriter suggested a presentation to the next council meeting on the community supervision strategies used by DOC.

The council agreed to have its next meeting Dec. 2-3 in Great Falls.

The meeting adjourned at 3:20 p.m.

Summary prepared by Bob Anez